

**SOUZA et al**  
**Serial No. 08/354,726**

- 3 -

**REMARKS**

The claims of this application are directed to a specific compound represented by the formula of claim 18 and specific salts of those compounds as in claim 19.

The grandparent of this application issued as U.S. Patent No. 5,045,552 on September 2, 1991. That patent claims certain compounds that are highly useful in the treatment of ulcers. Included in the file of the grandparent application is the declaration of Mr. Fujisaki made January 18, 1991. A true and correct copy of that declaration is attached. Please note compound 1 on page 3 of the declaration and then compare it with the compound defined in claim 18 of the present application. Claim 18 defines a compound that is useful as an intermediate for preparing compound 1 of the Fujisaki declaration which is, in fact, compound 19 of the patent just mentioned above.

Use of the compounds of claims 18 and 19 as intermediates is illustrated in the specification of this application and preparation process A on page 26 and preparation process B on page 30. These are illustrative reaction schemes.

The final products resulting from the compounds of the claimed invention exhibit unexpectedly high inhibiting the secretion of gastric acid as explained in the Fujisaki declaration. As held by the Court of Customs and Patent Appeals, predecessor of the Court of Appeal for the Federal Circuit *In re Magerlein*, evidence of an unexpected superior activity or property of an end product may, under appropriate circumstances, be considered in the determination of the non-obviousness of the claimed intermediate (202 USPQ 473 at 478). Accordingly, it is respectfully submitted that the claims of this application define inventive subject matter.

Favorable consideration of these claims is requested.

SOUUDA et al  
Serial No. 08/354,726

- 4 -

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: 

Arthur R. Crawford  
Reg. No. 25,327

ARC:pc  
1100 North Glebe Road, 8th Floor  
Arlington, VA 22201-4714  
Telephone: (703) 816-4000  
Facsimile: (703) 816-4100

#60144

FAX COPY RECEIVED

MAR 14 1995

RECEIVED 755A